

BEFORE THE  
OFFICE OF ADMINISTRATIVE HEARINGS  
STATE OF CALIFORNIA

In the Matter of:

PARENT ON BEHALF OF STUDENT,

v.

SALINAS CITY ELEMENTARY SCHOOL  
DISTRICT, MONTEREY COUNTY  
OFFICE OF EDUCATION & SANTA  
RITA UNION SCHOOL DISTRICT.

OAH CASE NO. 2013071259

ORDER GRANTING REQUEST FOR  
CONTINUANCE AND SETTING NEW  
PREHEARING CONFERENCE AND  
DUE PROCESS HEARING DATES

On January 9, 2014, the parties filed with the Office of Administrative Hearings (OAH) a *third* request to continue the dates in this matter.<sup>1</sup> The parties request a further continuance in order to receive the results of two independent educational evaluations (IEE's) that were agreed upon at the November 20, 2013 mediation, and to convene an individualized education program team meeting to review the results and potentially resolve the case. The hearing is currently scheduled to commence on January 27, 2014.

A due process hearing must be conducted and a decision rendered within 45 days of receipt of the due process notice unless an extension is granted for good cause. (34 C.F.R. § 300.515(a) & (c) (2006); Ed. Code, §§ 56502, subd. (f), 56505, subd. (f)(3); Cal. Code Regs., tit. 1, § 1020.) As a result, continuances are disfavored. Good cause may include the unavailability of a party, counsel, or an essential witness due to death, illness or other excusable circumstances; substitution of an attorney when the substitution is required in the interests of justice; a party's excused inability to obtain essential testimony or other material evidence despite diligent efforts; or another significant, unanticipated change in the status of the case as a result of which the case is not ready for hearing. (See Cal. Rules of Court, rule 3.1332(c).) OAH considers all relevant facts and circumstances, including the proximity of the hearing date; previous continuances or delays; the length of continuance requested; the availability of other means to address the problem giving rise to the request; prejudice to a party or witness as a result of a continuance; the impact of granting a continuance on other pending hearings; whether trial counsel is engaged in another trial; whether the parties have

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<sup>1</sup> Although the parties used the OAH continuance form and checked the box indicating this was a second continuance request, the record shows that this case was continued on September 4, 2013, as well as on October 21, 2013. Further the October 21, 2013 Order advises that no further continuances will be granted without a showing of substantial good cause.

stipulated to a continuance; whether the interests of justice are served by the continuance; and any other relevant fact or circumstance. (See Cal. Rules of Court, rule 3.1332(d).)

OAH has reviewed the request for good cause and considered all relevant facts and circumstances. The request is:

☒ Granted. All dates are vacated. However, the parties are advised that they should have requested a continuance of the hearing dates at the time they agreed to the IEE's in order to ensure sufficient time to receive and review the results prior to the hearing date. **No further continuances will be granted in this case.** This matter will be set as follows:

Prehearing Conference: March 14, 2014, at 1:00 PM

Due Process Hearing: March 24, 2014, at 1:30 PM, March 25-27, 2014, at 9:00 AM, and continuing day to day, Monday through Thursday, as needed at the discretion of the Administrative Law Judge.

IT IS SO ORDERED.

Dated: January 9, 2014

/s/

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THERESA RAVANDI  
Administrative Law Judge  
Office of Administrative Hearings